

2:15-cv-01045-RFB-PAL

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CUNG LE, et al.,  
Plaintiffs,  
vs.  
ZUFFA, LLC, d/b/a Ultimate  
Fighting Championship and  
UFC,  
Defendants.

)  
)  
) Case No. 2:15-cv-01045-RFB-PAL  
)  
) Las Vegas, Nevada  
) Wednesday, August 28, 2019  
) 9:07 a.m.  
)  
) EVIDENTIARY HEARING, DAY THREE  
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THE HONORABLE RICHARD F. BOULWARE, II,  
UNITED STATES DISTRICT JUDGE

APPEARANCES: See Pages 2 and 3

COURT REPORTER: Patricia L. Ganci, RMR, CRR  
United States District Court  
333 Las Vegas Boulevard South, Room 1334  
Las Vegas, Nevada 89101

Proceedings reported by machine shorthand, transcript produced  
by computer-aided transcription.

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1 **A.** Yeah. Who -- whose compensation changes am I looking at  
2 here?

3 **Q.** Fighters.

4 **A.** No, I understand, but only Zuffa fighters?

5 **Q.** Yes. No. No. This is all the fighters in the ranked  
6 market.

7 **A.** Can I see Exhibit 17?

8 THE COURT: I'm sorry. Is there a question here,  
9 Mr. Cramer? Because you could just cite this without  
10 Dr. Topel --

11 MR. CRAMER: Okay.

12 THE COURT: -- testifying about it.

13 MR. CRAMER: All right. Let me just ask the question I  
14 want to ask then.

15 BY MR. CRAMER:

16 **Q.** You agree, would you, as you told me at your deposition,  
17 that -- that Zuffa fighters -- that you found that Zuffa  
18 fighters in all ranking categories: 1 to 15, 16 to 30, 31 to  
19 50, 51 to 100, and 100 and worse, the compensation, on average,  
20 in all of those tiers moved up during the course of the study  
21 period, correct?

22 **A.** I believe that's true.

23 **Q.** They all --

24 **A.** Should we look at Exhibit 17?

25 **Q.** I think that -- that's fine. They all -- they all moved in

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1 the same -- you found, and it's in the record, that all of the  
2 compensation in all of the fighter tiers moved -- moved in the  
3 same direction during the class period, right?

4 **A.** I have some recollection of that, yes.

5 **Q.** Okay. And in your opinion, as you told me in your  
6 deposition, is that a -- the reason for that is that there was a  
7 general increase in demand for fighter services that call --  
8 that caused fighter pay in all of the different ranking  
9 categories to move, correct?

10 **A.** I -- I'm sure I said something like that.

11 **Q.** Okay. All right. This is the last exhibit I want to show  
12 you.

13 Does it all fit on this? Is there a way that I can?

14 (Conferring with courtroom administrator.)

15 **MR. CRAMER:** I am not technologically inclined. Thank  
16 you.

17 **THE WITNESS:** That's perfect.

18 (Discussion held off the record.)

19 **BY MR. CRAMER:**

20 **Q.** All right. This is Exhibit 28 from your report, correct?

21 **A.** Yes.

22 **Q.** And this is your analysis of foreclosure share, or it's your  
23 redone analysis of foreclosure share that you did in your  
24 report, correct?

25 **A.** It's a graph of shares.

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1 experiment to test whether or not Zuffa has monopsony power.  
2 And he says, I look at what happened when Zuffa absorbed the  
3 Strikeforce fighters. And he was very excited about the fact  
4 that those on -- and on an absolute level, those fighters went  
5 up in wage. And as I was sitting there saying, my, God, what  
6 you just told us is that that would be evidence of monopsony  
7 power.

8 The ... maybe I should --

9 Q. Is there another reason that you have to reject the idea  
10 that when Strikeforce fighters go to Zuffa, the mere fact that  
11 they were paid more means that they were -- that they were being  
12 paid a competitive wage?

13 A. No. And I'm -- for this other reason I want to -- I want to  
14 go back to the intuition that Your Honor mentioned yesterday,  
15 which is that these fighters are getting now merged up with a  
16 higher pool of more highly ranked fighters. And, so, it's  
17 natural that their marginal revenue productivity is going to go  
18 up and it's natural that their wages are going to go up in  
19 absolute level. And, so, to say from that that because the  
20 wages went up, Dr. Topel concludes there must be no monopsony  
21 here, is just -- just wrong.

22 I also just want to say one other thing that's kind of  
23 obvious, to me anyway, is that if you're a large firm and you  
24 hire another -- another -- you buy another firm and you bring  
25 over their employees, and if you use a pay structure, it would

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1 be -- it would be natural that you'd move those new employees  
2 that are recently absorbed into the same pay structure as the  
3 one that exists at your firm.

4 Can you imagine two employees speaking and knowing that  
5 because you were -- you came over from the acquired firm that  
6 you were going to be treated differently forever, right? That  
7 probably wouldn't go down well.

8 So, when I learned that Zuffa raised these wages to  
9 come into alignment, what I hear that is further support of the  
10 pay structure.

11 Q. And -- and is this why you used wage share instead of wage  
12 level?

13 A. Well, yes. What wage -- what wage share does is it -- is it  
14 controls for those differences in revenues that reflect  
15 differences in marginal revenue productivity. And the bottom  
16 line here is that when those Strikeforce fighters came over, the  
17 mere fact that they get mixed up with more valuable fighters,  
18 right, is going to increase their marginal revenue productivity.  
19 And that's what the wage share is trying to accommodate.

20 Q. All right. Let's move to another topic, your year fixed  
21 effects and time trend. We had a long discussion of that, or  
22 Dr. Topel and His Honor and Mr. Isaacson had a long discussion  
23 of that so I wanted you, Dr. Singer, to have a chance to respond  
24 to it.

25 So, Dr. Topel asserted that because you included year